DARK MONEY

The hidden millions in Australia's political finance system

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INTRODUCTION

The purpose of having disclosure regimes for political donations is to minimize possible corruption. They are a transparency measure that use the sanitizing force of public scrutiny to reduce the likelihood of undue influence being exerted within the political process. Operating at their most effective they enable the public to see who is making payments to the political parties and in what amounts. Armed with this information the public are able to make judgements about the likely significance and influence of payments, and their acceptability in the democratic process.

Disclosure regimes force politicians and their donors to reflect on how the public would view their financial relationship. They are forced to consider whether their actions would 'pass the pub test' and meet social norms of probity and ethics. It becomes incumbent upon them to consider the reputational damage that might come with their actions. In doing so, the public are relieved of needing to rely solely on politicians and donors' personal morality, and can instead be reassured that calculations of their self-interest will ensure their actions are consistent with public views on probity and fair conduct.

This report seeks to examine the extent to which the Australian financial disclosure system facilitates this transparency goal by giving the public clear and accessible information about who is providing funding to our political parties. It will begin by outlining the problems in the data and the way in which it is disclosed, which impair transparency for the general public, and which make aspects of this analysis difficult. It will then go on to outline what we know and what we don't about political donations in Australia.

FINDINGS IN BRIEF

The report finds that in the 2013 federal election the two major parties declared less than 25% of their privately raised income as donations to the Australian Electoral Commission. Approximately half of those donations came from party fundraising bodies like the Free Enterprise Foundation or Labor Holdings. As a result, only 12-15% of the parties' incomes can be clearly and easily attributed to specific political donors.

There is also a large and growing proportion of the parties' incomes going entirely undisclosed. In the 2013 election year 63% of Liberal Party private income and 50% of Labor's private income was not attributed to any source.

In a context in which such large proportions of the parties' incomes are not being transparently disclosed, it begs the question of what we are to make of the donations that are reported. Are they an accurate microcosm of the larger funding base of the parties? Or are they in fact a list of the more politically naïve participants, with the more sophisticated players availing themselves of the many ways in which they can conceal their payments? The report concludes that the sheer volume of 'dark money' in the system throws considerable doubt over the whole disclosure system.

Note: All public funding has also been removed to focus exclusively on the parties' private sources of income, and intraparty payments have been removed from the data to prevent double counting.

WHAT WE KNOW

For political donations disclosure to be an effective political transparency measure, the data must be able to be accessed in a meaningful form by the public. Journalists need to be able to construct accounts for the public that inform them about how the political parties are being funded. They need to be able to identify where political funding is coming from and trends and developments in how that funding is changing. They also need to be able to put individual payments into a context which enables the public to make reasonable judgements about the likely significance and influence of payments, and their acceptability in the democratic process.

The Australian Electoral Commission (AEC) database presents several challenges that can make it difficult to get a grasp of what is occurring the political donations landscape. There are thousands of lines of data, with limited means to sort or categorize the data. The aggregates that can be easily calculated are not meaningful. The AEC does not make any attempt to analyse aggregates and trends in the data. This means that journalists and those seeking to report on political donations matters struggle to piece together meaningful perspectives within the resources available to them.

For researchers who have the resources to dedicate to analysing the data, it is a substantial task to get any sort of overview of what is occurring. The AEC database presents a number of challenges. Firstly, the AEC data only provides the name and address of donors. As a result, hundreds if not thousands of lines of donors need to be researched and coded to identify what companies from what sectors are making payments. Secondly, it is difficult for a researcher to be confident of having found all of the payments from a single organization due to a lack of linkages between payment types in the data, and different abbreviations of company names. Thirdly, the AEC does not provide even the most preliminary breakdown of the data, for example in the 'other receipts' category public funding is mixed in with payments that academic studies have argued should be treated as donations for analytical purposes.[1] As a result, clearly innocent income needs to be manually separated out from likely

[1] McMenamin, I. (2008). Business, Politics and Money in Australia: Testing Economic, Political and Ideological Explanations. Australian Journal of Political Science, 43, 377–393.

donations, before basic tallies can be calculated. Finally, the AEC data does not link donors across years within the database. To identify any patterns or trends in the data, any analysis needs to be done for each year individually, and then linked to derive any trends or anomalies. This makes it cumbersome to not only assess broader trends in the political donations data, but also to put individual payments into any kind of context that would enable a researcher, let alone a journalist, to identify their likely significance or influence.

Beyond the problems with the way in which the AEC presents the data, there are also significant transparency problems in the disclosures themselves.

DISCLOSURE PROBLEMS FOR PAYMENT TYPES

The AEC data can be used to break payments made to the political parties into four groups. Each of the payment types are subject to their own particular disclosure problems.

1. Declared Donations

The declared 'donations' are technically defined as gifts to the political parties. At first glance these are the most transparent of the income the parties receive. However, several difficulties arise in identifying the sources of declared 'donations'.

The first difficulty is that both of the major parties have a number of organizations that fundraise for them and then donate to the party. For the Liberal Party the key organisations include McCormack Pty Ltd, the Free Enterprise Foundation, Parkeelia, Vapoid, the Platinum forum, the Kooyong Club, the various 200 and 500 Clubs, the Enterprise Club and the Civic group. These groups combined accounted for $6.01m of the parties $10.3m in declared donations in 2014-2015.

For the Labor Party the key organizations include Labor Holdings, the Progressive Business Associations, the 1973 Foundation, John Curtin House and the Chifley Research Centre. Payments from these organizations made up $4.2m of the parties $7.3m in declared donations in 2014-15. The trade unions' donations accounted for a further $1.2m of that $7.3m.

Some of these organizations, such as the unions, are officially affiliated with the party and do have to disclose their sources of income. As a result, by digging through the income to these affiliates, it may in some cases be possible to identify the ultimate source of the funds to some degree. However, many of these arm's length organizations do not disclose the payments that are made to them, effectively concealing the origins of the money coming into the parties.

A third difficulty arises in identifying the sources of these funds when they are listed as private donations with only the donors' name and address provided. There are a number of cases where personal donations have been made by individuals whose companies had interests being considered by the government. It can be difficult to link the individual to the company when there is only a private name and address. There are many payments of $20,000, $40,000, and even $100,000, in the disclosure list for which it is extremely difficult to find out any information about the donor.

2. Other Receipts

There is a second category of payments to parties that are described as 'other receipts'. Theoretically, these payments do not meet the legislative definition of a gift and can include things like interest on investments, rent or property transfers, and union subscriptions. Under the Commonwealth Electoral Act, donors do not have to declare funds in this category.

An examination of the data reveals a lack of rigor and consistency in how these categories are applied. It is very common for there to be discrepancies between how the donor categorizes their payment in their returns, and how the parties categorize them in the parties' returns. One analysis found 80 cases in the 2014-15 financial year where donors had declared payments as a 'donation' and the parties had recorded the payments as 'other receipts'[2]. There is also evidence of variation in application of the categories within the parties, with identical looking payments being classified differently. For example, in 2014-15 Consolidated Property Group made three payments to the Liberal Party of $16,500, but in two cases the payment was recorded as a 'donation' and in one instance it was categorized as an 'other receipt'. In the same year ADCO constructions made two payments of $16,500, one of which was recorded as a 'donation' and the other as an 'other receipt', Meriton Property Services made two payments of $25,000 that were recorded as 'donations' and one of $20,000 that was recorded as an 'other receipt'. These classification anomalies are prevalent across both major parties' returns.

There has also been widespread media coverage of some strategies used by the parties to be able to classify donations as other receipts. These include holding dinners and selling tickets for thousands of dollars and then recording it as a payment for a service rather than a donation. In some cases, the names of those that purchased tickets are not declared at all and only the net profits of the event are recorded.[3]

The fact that these payments are mixed in with genuine 'other receipts' creates a number of problems in enabling the public to interpret the financial disclosures. It is impossible to tell from the publicly released data whether any given large payment was the proceeds of selling a piece of property, or whether it was a payment coinciding with an important government decision. The difficulties that this creates are highlighted by a consideration of payments from the banks. There are a whole range of reasons why large organizations might be receiving entirely legitimate payments from financial institutions, and these are difficult to untangle with any certainty from what appears to be a quite deceptive pattern of funding the political parties.

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[2] McGhee, A. (2016, February 19). Nearly $2m of political donations missing from AEC disclosures. ABC News Online. Retrieved from http://www.abc.net.au/news/2016-02-19/$1.7m-of-political-donations-missing-from-party-disclosures/7178228

[3] Gauja, A., & Sawer, M. (2016). *Party Rules? Dilemmas of political party regulation in Australia*. ANU EPress. Retrieved from https://press.anu.edu.au/publications/party-rules/download

Example: Banks in Muddy Water

In the last 10 years the ANZ has submitted a political donations return declaring that they give exactly the same size donation to each side worth $50-100,000 each year, but that they increase their donation to the Liberals to $150,000 in an election year. However, when we look at the 'other receipts' the money flow was up to nine times the size of their declared donations. It flows much more strongly to the Liberal Party, and it peaked (almost doubling) in years where crucial decisœions were being made about the controversial 'Future of Financial Advice' reforms of the financial services industry.

Over the decade the NAB's publicly declared donations were of similar size to both parties until the Future of Financial Services Reform process began, at which point they publicly declared they were giving two to three times as much to the Liberals who opposed the reforms. However, the public declarations significantly understated the amount of money flowing into the Liberals through 'other receipts'. In most years they declared they were giving the Liberals in the order $150,000, however the money the parties and their associated entities declared regularly tallied to over a million.

Westpac and the Commonwealth Bank of Australia appear to have different strategies for providing financial support to the parties. They do not declare significant donations to the parties, however, they do make large loans to the parties' fundraising bodies. In 2010-2011 the parties and their associated entities reported receipts of over $27 million from Westpac, mostly in the form of loans to their fundraising arms. The Commonwealth Bank has similarly been in the business of making loans to party fundraising bodies, loaning $25 million to Labor's funding company Labor Holdings while Kevin Rudd was at the height of his power. Without knowing the terms and conditions of these loans it is difficult to know what financial support, if any, they amount to for the parties. It is also a matter requiring further exploration whether the banks have to disclose these loans to their shareholders, as they do not declare them on the political donations returns.

The difficulties around not being able to distinguish between donations and legitimate 'other receipts' also arises in seeking to analyse the money flowing into the parties through affiliated organisations that act as fundraising bodies. Many of these bodies do disclose their income to the AEC, but they do not have to distinguish between donations and other receipts making it difficult to interpret the payments.

3. Undisclosed Receipts

The third group of payments is the largest category of income and the one that we know least about. This income has been calculated as the gap between total income that the parties declared receiving to the AEC and the income they provided receipts for. As such, I am referring to it as the 'undisclosed receipts'. This income presumably

refers to the payments that fell below the declaration threshold and which the parties are not required to provide receipts for.

The declaration threshold is contested between the parties. In 2006-07 the Coalition lifted the declaration threshold from $1,500 to $10,300, to be indexed annually. The Liberal and National Parties both operate according to this threshold, which was $13,200 in the current financial year. The Labor Party and the Greens opposed the lifting of the threshold and publicly commit that they declare all payments over $1,000.

Donation splitting means that very large payments can be concealed under this threshold. Donation splitting is when payments are divided into smaller amounts and made as multiple separate payments. There has been quite a lot of media coverage of the fact that payments can be made to different jurisdictions, enabling donations of over $100,000 to be paid in this way. However, the problem is even worse than the media reports suggest. The AEC financial disclosure guide to the political parties advises that they do not have to aggregate payments made to the same branch on different days, so long as they fall below the disclosure threshold.[4] In this way, if a donor were to pay $10,000 a day, five days a week, 50 weeks a year, to each of the different branches would mean that more than $20 million dollars could be given without the political parties having to disclose the donor on their returns. Donors are required to declare the aggregate value of their donations, but if they failed to lodge a disclosure, which is common, there would be nothing to alert anyone about the missing disclosure or the size of their payments.

4. Public Funding

Fourthly, there is public funding for the political parties. In the AEC returns these payments are included in the 'other receipts.' In this study they have been separated out to enable a clearer focus on the parties' private fundraising activities. This report has treated all payments from Electoral Commissions and government departments, such as finance departments that pay Parliamentary allowances, as public funding.

[4] Australian Electoral Commission Financial Disclosure Guide for Political Parties, http://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/guides/political-parties/information.htm#part2 viewed 11/11/2016.

WHAT WE DON'T KNOW

This study is based on the data downloaded from the AEC financial disclosures website. It has used the 'party groups' data that brings together the disclosures of the different branches of each party, so as to encompass any payments transferred between jurisdictions. Intraparty payments have been removed from the data to prevent double counting. All public funding has also been removed from the data so as to focus the analysis on the parties' private sources of income. Analysis that focuses on a single year focuses on the 2013-14 election year, as the most recent election year data is available for.

Declared donations make up a small proportion of major parties' incomes

The declared 'donations' category make up a small and declining proportion of the major parties' incomes.

Liberal Party of Australia

In the 2013-14 election year payments the Liberal Party declared as 'donations' made up only 25%, or $19.3m, of the party's total income of $78.6m. Over the last decade declared donations have made up a declining proportion of the party's income, dropping from 30% in the 2007-08 election to 28% in the 2010-11 year, to 25% in the 2013-14 election year. (See Figure 1)

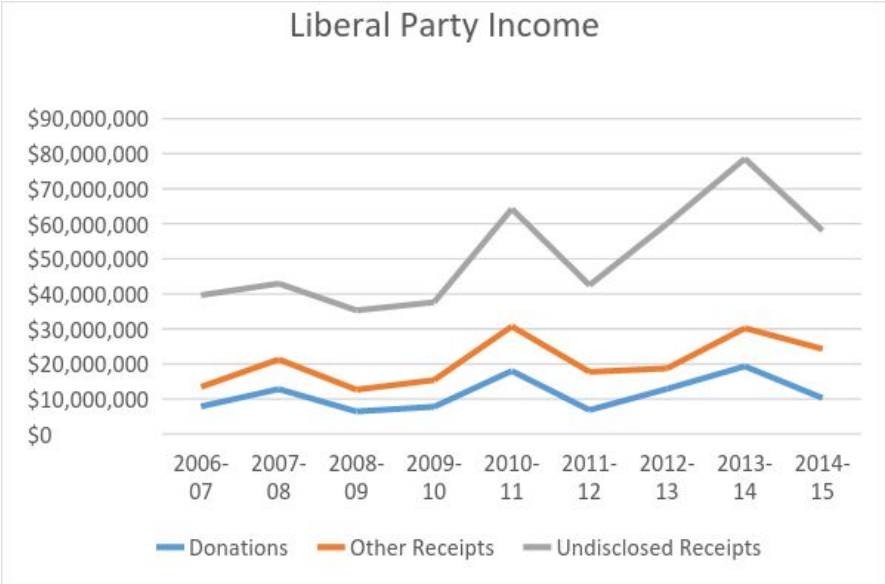

Figure 1

Of the $19.3m in declared donations, $8m came from 3rd party donors such as 'affiliated groups' – or 3rd party donations from known fundraising bodies. It is often difficult to track what the original source of money is that is being funnelled in

through these 3rd parties. Thus, only 15% or $11m of the party's $78.6m income can be seen to be clearly and easily identified in the AEC's political donations category. (See Figure 2)

A further 11% of the Liberal Party's income appeared in the murky 'other receipts' category in which fundraising payments are mixed in with other sources of income.

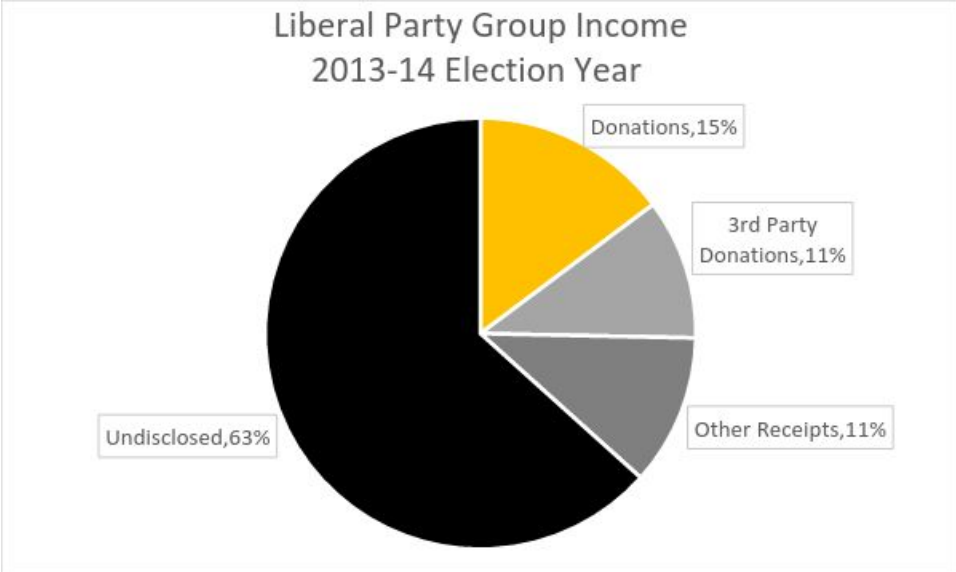

Figure 2

Australian Labor Party

In the 2013-14 election year the Labor party's declared 'donations' also made up 25% or $11.6m of its total income of $46.3m. Like the Liberal party this was down from 30% in the 2007-08 election, though the pattern is less clear for Labor and is complicated by the fact that its income fell over the period. (See Figure 3)

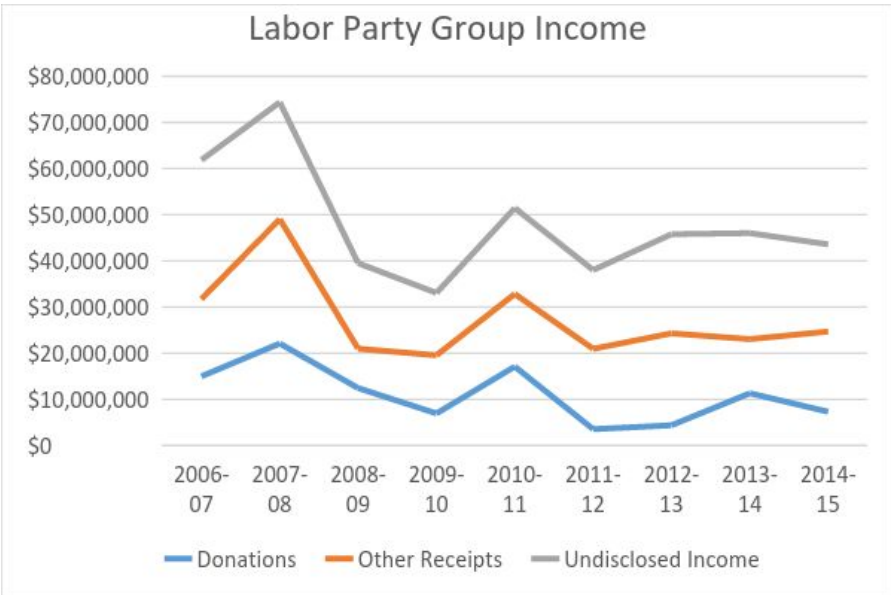

Figure 3

Of Labor's $11.6 m in declared donations in 2013-14 approximately half of it was 3rd party donations from unions or known fundraising bodies. The unions accounted for $3.8m and a further $1.8m came from other organisations whose sources of income can be difficult to track. Thus, only 12% of the party's income of $46m can be seen to be clearly and easily identified as political donations in the AEC database. (See Figure 4)

A further 26% of their income was reported in the murky 'other receipts' category.

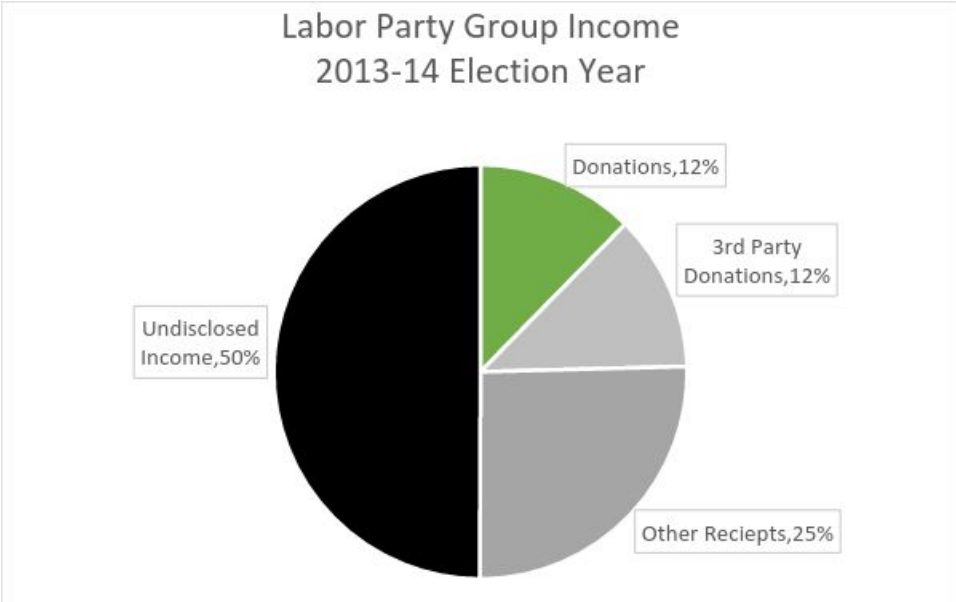

Figure 4

Growing Amount of Payments Going Undisclosed for Major Parties

The proportion of Liberal Party income going 'undisclosed' is increasing, and reached 69% of total income in 2012-13. The amounts going undisclosed increased steadily from $21.6m in 2007-08 to $33.5m in 2010-11, reaching $48.4m in the 2013-14 election.

The Labor Party's undisclosed income has been comparatively steady in absolute terms over the same period slipping from $25.3m in 2007-08 to $18.6m in 2010-11 before recovering somewhat to $23m in 2013-14. It is interesting to note that while the party's income has dropped dramatically over the decade, the total value of its 'undisclosed receipts' has been fairly steady. When the party's income was high, 'undisclosed receipts' made up 34%, and when the party's income fell they accounted for 50% in 2013-14. (See Figure 5)

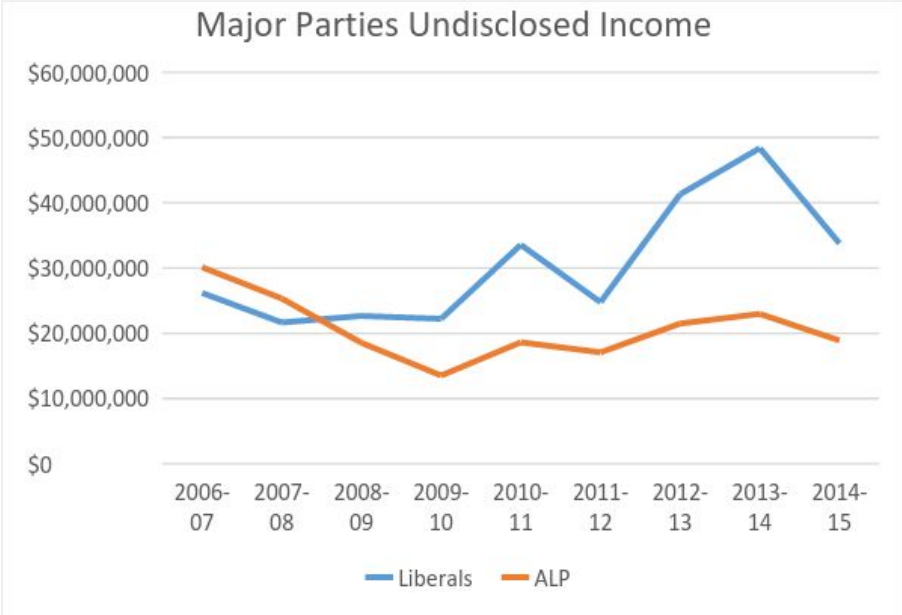

Figure 5

Minor Parties

The minor parties' disclosures are interesting for the ways in which they are similar and different to the major parties. The Nationals and the Greens disclose similar levels of funding over the decade each peaking at just over $10m. Both parties have a very large proportions of their payments coming in 'undisclosed'. This is likely to reflect that they lack the large donations of the bigger parties and the small donations that fall below the threshold make up a larger proportion of their incomes. However this is where the similarities end, as their financial disclosures are otherwise quite different.

The Nationals income is declining. The breakdown of its income looks very similar to the major parties. It receives substantial amount of income in 'other receipts' and from '3rd party donations'. The fundraising bodies for the Nationals include Doogary Pty Ltd, the Free Enterprise Foundation and John McEwen House. Like the major parties, almost all the declared receipts to the Nationals are from companies or organisations.

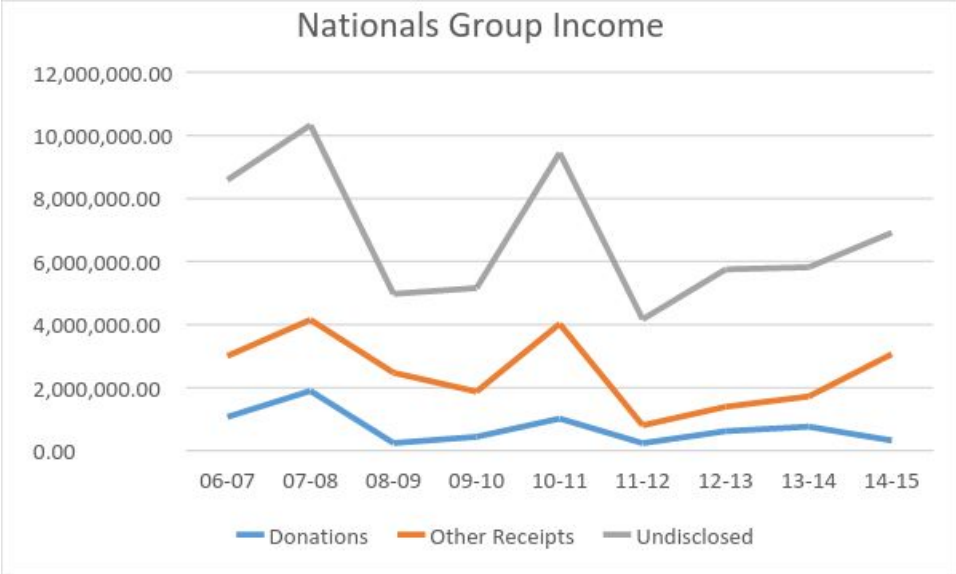

Figure 6

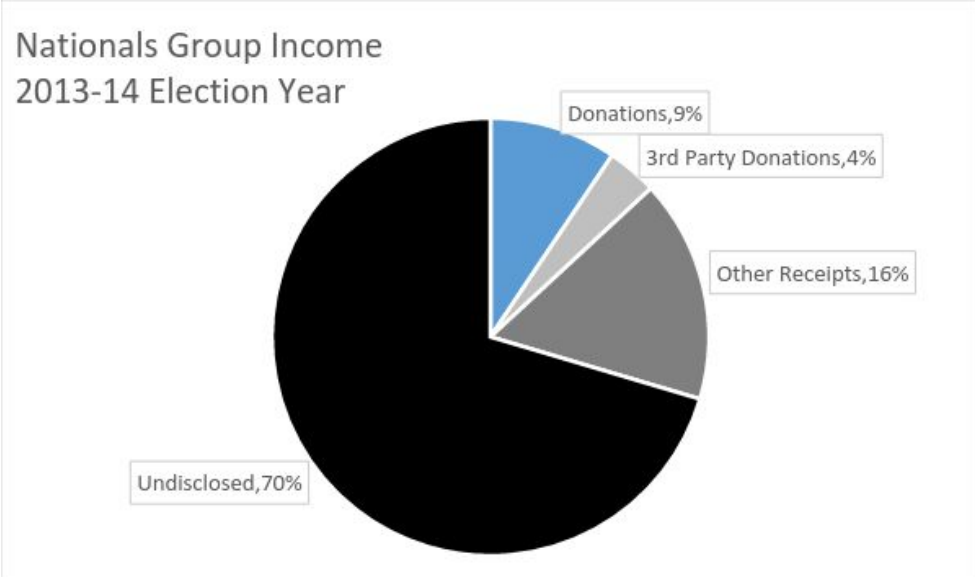

Figure 7

The Greens financial disclosures are quite different from the other parties. They declare almost no income as 'other receipts' and they do not have any fundraising organizations acting as '3rd party donors'. Almost all of their donations are from individuals, with only a small number of companies and unions making payments. They have the largest proportion of their income going undisclosed of any party. They claim they report all receipts over $1000, and that this reflects that majority of their income comes from small donations made by private individuals**.**

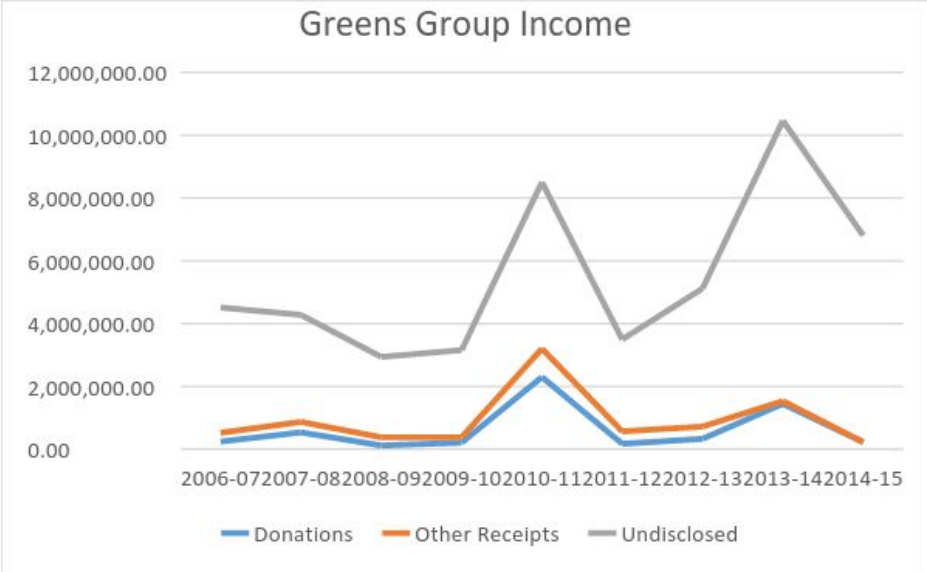

Figure 8

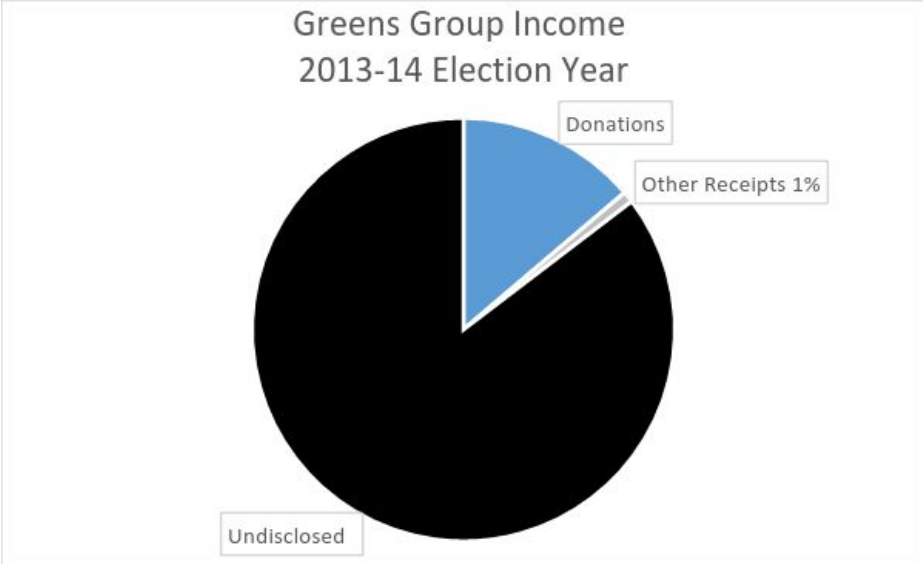

Figure 9

CONCLUSION

Australia's financial disclosure system is sufficiently poor that the most useful way to make sense of the political donations landscape is to map what we do not know. It is to map out how much 'dark money' is in the system which is not being adequately disclosed. This study has found that about 85% of the independently sourced income going into the major parties is opaque to public scrutiny. Nearly 60%, or about $70m is entirely undisclosed. It has also found that disclosing donations to political parties is largely optional as large sums can easily be hidden using donation splitting.

In this context, it is difficult to know what to make of the disclosures that are made. It is difficult to know whether they are an accurate microcosm of the larger funding base of the parties, or whether they are a list of the politically naïve, and the more sophisticated players are the ones availing themselves of the various methods of concealing their contributions. The volume of 'dark money' in the system undermines the confidence that the public can have in being able to interpret the payments that are disclosed, and undermines the integrity of Australia's financial disclosure regime.

APPENDIX - PARTY INCOME BY FINANCIAL YEAR

Labor Party Group Income									
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Donations	$ 14,974,252	$ 22,086,842	$ 12,425,845	$ 6,933,443	$ 17,079,411	$ 3,524,829	$ 4,366,624	$ 11,309,417	$ 7,295,316
Other Receipts	$ 16,753,030	$ 26,945,176	$ 8,531,750	$ 12,597,296	$ 15,746,596	$ 17,406,718	$ 19,917,938	$ 11,722,450	$ 17,383,825
Undisclosed	$ 30,120,092	$ 25,325,359	$ 18,533,180	$ 13,521,695	$ 18,612,410	$ 17,069,237	$ 21,484,178	$ 22,968,818	$ 18,893,468
Total Receipts	$ 61,847,374	$ 74,357,377	$ 39,490,775	$ 33,052,434	$ 51,438,417	$ 38,000,784	$ 45,768,740	$ 46,000,685	$ 43,572,609

Liberal Party Group Income									
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Donations	$ 7,874,473	$ 12,814,517	$ 6,435,165	$ 7,778,686	$ 18,015,214	$ 6,833,242	$ 12,892,642	$ 19,335,406	$ 10,258,458
Other Receipts	$ 5,583,614	$ 8,473,841	$ 6,211,893	$ 7,617,276	$ 12,700,361	$ 10,893,872	$ 5,842,672	$ 10,890,120	$ 14,026,145
Undisclosed	$ 26,180,504	$ 21,651,244	$ 22,655,037	$ 22,212,084	$ 33,560,873	$ 24,759,091	$ 41,299,171	$ 48,365,745	$ 33,763,290
Total Receipts	$ 39,638,592	$ 42,939,603	$ 35,302,095	$ 37,608,046	$ 64,276,448	$ 42,486,205	$ 60,034,485	$ 78,591,271	$ 58,047,893

National Party Group Income									
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Donations	$ 1,070,772	$ 1,896,666	$ 242,868	$ 441,390	$ 1,019,762	$ 238,891	$ 620,030	$ 763,592	$ 324,648
Other Receipts	$ 1,933,514	$ 2,253,678	$ 2,230,009	$ 1,431,617	$ 3,002,690	$ 566,145	$ 774,275	$ 957,148	$ 2,737,561
Undisclosed	$ 5,580,736	$ 6,172,559	$ 2,499,009	$ 3,285,046	$ 5,419,693	$ 3,361,902	$ 4,355,331	$ 4,096,290	$ 3,848,497
Total Receipts	$ 8,585,021	$ 10,322,902	$ 4,971,886	$ 5,158,053	$ 9,442,145	$ 4,166,938	$ 5,749,636	$ 5,817,030	$ 6,910,706

Green Party Group Income									
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Donations	$ 240,276	$ 533,006	$ 115,294	$ 206,000	$ 2,295,388	$ 169,089	$ 328,197	$ 1,442,729	$ 221,919
Other Receipts	$ 280,000	$ 332,719	$ 261,389	$ 169,513	$ 903,791	$ 397,027	$ 388,957	$ 88,789	$ -
Undisclosed	$ 3,988,730	$ 3,410,075	$ 2,559,138	$ 2,777,101	$ 5,300,104	$ 2,926,326	$ 4,398,684	$ 8,927,909	$ 6,580,042
Total Receipts	$ 4,509,006	$ 4,275,800	$ 2,935,821	$ 3,152,614	$ 8,499,283	$ 3,492,442	$ 5,115,838	$ 10,459,427	$ 6,801,961

Group Party Incomes drawn from the AEC website, with intraparty payments and public funding removed.